



US Department  
of Transportation  
**Federal Highway  
Administration**

Office of the Administrator

400 Seventh St. S.W.  
Washington, D.C. 20590

January 27, 1997  
Refer to: HEP-40

Mr. John B. Daly  
Commissioner  
New York State Department of Transportation  
1220 Washington Avenue  
State Campus, Building 5  
Albany, NY 12232

Through: Mr. Henry H. Rentz  
Regional Administrator  
Albany, NY

Mr. Harold J. Brown  
Division Administrator  
Albany, NY

Dear Mr. Daly:

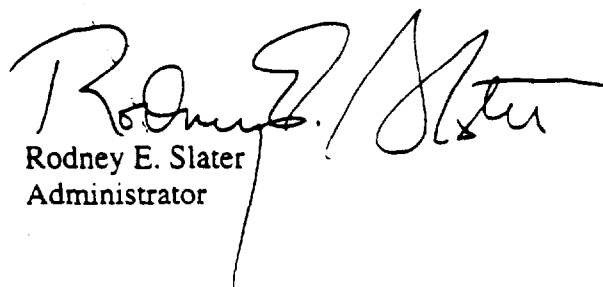
During our discussions at the AASHTO Annual Meeting in Buffalo, I promised to follow-up with further information on wetland banking. After further discussion between our Washington and field staffs, I want to unequivocally encourage you to move forward with your proposed interagency agreement and plan to develop wetland mitigation banks for the NYSDOT's highway construction program. As more banks are implemented around the country by State departments of transportation, we are seeing positive and beneficial results for both the highway agency and wetland resource. Irreplaceable wetlands which could have been lost to development are being preserved. Wetlands which were altered or degraded are being restored, providing the benefits of improved water quality and better wildlife habitat to both the public and private sectors. Buffer areas in wetland watersheds are being protected, enhancing existing wetland functions and values for society, including natural areas for urban recreation.

Wetland banking is proving to be, in many cases, ~~the approach of choice~~ in developing appropriate, cost-effective mitigation for unavoidable impacts to wetlands from highway projects. Economies of scale available through the development of wetland mitigation banks are an important factor in reducing costs of mitigation. Mitigation banks can be more effectively managed for public uses and benefits, especially if the bank is located on, or is acquired as, public land. Because wetland banks are usually larger than individual project mitigation sites, improved ecological effectiveness is another advantage. Since mitigation banks are usually implemented in advance of project construction impacts, project reviews are becoming less time consuming, resulting in shorter project development times and better scheduling. This is an important consideration in our current economic environment, when extended project development times or protracted coordination for 404 permit approvals can cause significant increases in right-of-way and construction costs. The availability of suitable sites for development of mitigation wetlands can be expected to decrease in the future, resulting in greater land and mitigation construction costs, as well as difficulty and delays in obtaining such sites.

The Corps of Engineers has just published the revised Nationwide Permits under Section 404. In particular, Nationwide 26 (concerning isolated wetlands and wetlands located above the headwaters of streams) was changed. The impact acreage limits for Nationwide 26 were decreased from a 10-acre maximum down to 3 acres. This might require the NYSDOT to obtain individual permits for more projects with relatively small impacts.

Our experience is that although wetland mitigation banking is not the answer to every wetland impact, it can be a better way to deal with unavoidable wetland losses, preserving wetland benefits to society at a lower cost and with less administrative burden to the highway agency. A recent nationwide survey of wetlands losses versus gains through mitigation on Federal-aid highway projects indicated that we are mitigating at approximately a 2 to 1 ratio. This represents a reasonable level of mitigation, and one which we feel is being facilitated by wetland mitigation banking. Again, we encourage your agency in its efforts to implement wetland banking in your transportation program.

Sincerely yours,



Rodney E. Slater  
Administrator

FHWA:HEP-40:PGarrett:nb:x62067:12/16/96

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cc: HOA-1, HOA-2, HOA-3, HOA-(ES), HRA-01,  
HDA-NY, HPD-1, HEP-1, HEP-40, HEP-30, EPT,  
PDT, AQPT, AQTT, NT, NCRT(FBank),  
NCRT(PGarrett), NCRT(2Files)